

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2231

IN THE MATTER OF:

Served June 10, 1981

Application of METROPOLITAN DRIVER)
SERVICE, INC., for Temporary)
Authority to Conduct Charter)
Operations in Passengers' Vehicles)

Case No. AP-81-08

By application filed May 7, 1981, Metropolitan Driver Service, Inc., seeks temporary authority to transport passengers and their baggage, over irregular routes, between points in the Metropolitan District, restricted to transportation performed only in vehicles owned by the passenger(s). 1/ Flat rates ranging from \$14 to \$21 are proposed for one-way transfers and hourly rates ranging from \$7 to \$8.50 are proposed for waiting time or non-transfer charter service. The minimum hourly charge would be \$17 for the first two hours.

Eight affidavits and two letters were submitted with the application. Travel Whirl of Md., Inc., of Rockville, Md., believes that five to 10 people a week from its corporate accounts could use applicant's "personal" service to and from local airports. "Local bus schedules" are said to be very limited and undependable. VIP Travel-Shady Grove of Gaithersburg, Md., assails the "only (unnamed) airport limo service" as being under common control with a competitive travel agency. VIP states that it has 10 passengers a day who need transportation to Dulles International Airport, and VIP would offer its company car to "certain valued clients" if applicant were authorized to provide drivers. There is assertedly no morning transit to Dulles (excluding taxicabs and privately owned vehicles), and VIP urgently requests that the alternate choice offered by applicant be approved.

Trade Tourism Marketing, Inc., located in the District of Columbia handles travel arrangements for vacationers. It opines that

1/ To the extent that the application may be construed as seeking either to serve points outside of the Metropolitan District or to provide service solely within Virginia, it is hereby dismissed. See Compact, Title I, Article I and Title II, Article XII, Section 1(b).

applicant's service would offer greater flexibility than the current limousine service while being less expensive than taxicab service. The company's president has experienced "missed flights and considerable aggravation" because of "unreliable" cab drivers. Accordingly, he would use applicant's service several times a month. The president of Ebco, Arlington, Va., would personally use applicant's service and would utilize it for the convenience of this firm's customers. Such usage could involve approximately 10 trips a month. Taxicab service has been unsatisfactory on trips to airports. 2/

Potomac Properties, Inc., expects regularly to utilize applicant's service. As a residential real estate sales firm, it would use applicant to pick up and deliver prospective clients. Out-of-town clients are said to be unfamiliar with local transportation facilities, and having applicant's driver chauffeur these clients in the company's car would facilitate business arrangements. Lazerow Development Co., Inc., of Frederick, Md., supports the application but defines no need for transportation between points in the Metropolitan District.

The Business Review of Washington would use Metropolitan Driver Service, Inc., "when the need does arise". The Review's advertising manager needs dependable, economical and efficient transportation while making sales calls in Virginia and Maryland and would use applicant's service for vacations with family and friends. Mitchell H. Shugart of Rockville, Md., cites one specific instance where taxicab service would not have been completely satisfactory to meet the transportation and baggage handling needs of two elderly guests. Mr. Schugart also complains about the cost of airport limousines, taxicabs and rented limousines and criticizes the parking facilities at Washington National Airport. He believes that applicant's service would be a convenient and cost-efficient alternative to other services.

An employee of Foreign Travel, Inc., once had applicant transport her husband in his vehicle to and from "the airport", and found the service to be convenient and satisfactory. The general manager of Gaithersburg Travel opines that the Gaithersburg area could use additional public transportation to airports, train stations and other points and believes that people would find applicant's service to be advantageous.

Protests to this application were filed by Air Transit, Inc., and Airport Limo, Inc. (jointly), Beltway Limousine Service, Inc., F.O.T.O., Inc., and Barwood Cab, Inc., Barwood Cab of Wheaton, Inc., and Silver Spring Taxi, Inc. (jointly).

2/ It appears that the trips described are between points solely in Virginia.

Airport Limo, Inc., provides regularly scheduled and call-and-demand charter service to and from Washington National Airport and Dulles International Airport pursuant to a certificate of public convenience and necessity issued by this Commission and under a contract with the Federal Aviation Administration. Air Transit, Inc., is the taxicab operator at Dulles under an exclusive contract with the FAA. Assertedly, a grant of this application would permit the siphoning of customers who now use protestants' services. Protestants state that they have not been approached by the travel agencies and others who support the application, and that the supporting witnesses cannot demonstrate that protestants' services are inadequate. Moreover, protestants contend, a grant of this application would increase traffic congestion at the airports and result in unnecessary gasoline consumption.

Beltway Limousine Service, Inc., states that it is now losing money on its airport service and would suffer further financial hardship from any influx of new transportation. 3/ F.O.T.O. (Fraternal Order of Taxicab Operators) believes that the proposed service would engender adverse effects for its members who are District of Columbia Taxicab drivers. F.O.T.O. points out that taxicab operators are subject to regulation concerning traffic, character, insurance, vehicle inspection and physical examination.

Barwood Cab, Inc., Barwood Cab of Wheaton, Inc., and Silver Spring Taxi, Inc., all operate within Montgomery County, Md., and between points in Montgomery County, on the one hand, and, on the other, points in the Metropolitan District. The Barwood entities employ 282 vehicles with drivers who can be radio dispatched to provide door-to-door service at any time. Silver Spring Taxi provides the same service with 55 taxicabs and 80 licensed drivers. The rates charged by these companies are those found to be just and reasonable by the Montgomery County Department of Transportation and, for interstate service, by this Commission pursuant to Order No. 67. These protestants note the predominance of support from Montgomery County based witnesses and the paucity of support from other jurisdictions within the Metropolitan District. Among other objections raised by these protestants are 1) no showing that the rates proposed would be compensatory, and 2) excessive fuel consumption, deadheading and traffic congestion.

3/ Beltway holds Certificate of Public Convenience and Necessity No. 25 authorizing, inter alia, special operations between National and Dulles Airports on the one hand, and, on the other, specified points in Montgomery and Prince George's Counties, Md. Beltway is also authorized to engage in charter operations between points in the Metropolitan District subject to certain restrictions.

Title II, Article XII, Section 4(d)(3) of the Compact provides that ". . . the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority . . ." to ". . . enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need. . . ." We find that the conditions precedent to the exercise of the Commission's discretion have not been met.

Many of the supporting statements are so vague that we cannot determine whether the transportation needs described therein are within this Commission's territorial jurisdiction. Such service needs as are more clearly articulated, ^{4/} hardly seem to be immediate and urgent. While it may be that applicant can, in the future, demonstrate that the public convenience and necessity require the somewhat novel service proposed herein, the standards quoted above require a higher level of proof to justify a grant of temporary authority.

That level has not been reached in this case. Only by inference can any of the transportation problems articulated be construed as the result of poor performance by any of the protestants. By and large, there is no showing that the certificated carriers have even been tried, much less found wanting. The mere fact that applicant's rates may, in some circumstances, result in a less expensive trip is insufficient to support a finding that protestants cannot meet the transportation needs expressed by the persons and firms supporting this application. Accordingly, the application, except to the extent described in footnote 1, supra, shall be denied.

Denial of this application is expressly without prejudice to applicant's entitlement to file an application for a certificate of public convenience and necessity.

THEREFORE, IT IS ORDERED that, except to the extent dismissed hereinabove, the above-captioned application is hereby denied.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS CLEMENT, SCHIFTER AND SHANNON:


WILLIAM H. MCGILVERY
Executive Director

^{4/} Basic information required includes the points of origin and destination, the number of trips in a given time period, transportation services utilized in the past and deficiencies in such service.